

MEMORANDUM



Centers for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-06-23

DATE: July 27, 2006

FROM: Director
Survey and Certification Group

TO: State Survey Agency Directors

SUBJECT: Clarification of 42 CFR Section 485.711(c) Standard: Emergency Care

Letter Summary

- This letter clarifies 42 CFR Section 485.711(c) Standard: Emergency Care regarding on-call physician availability at clinics, rehabilitation agencies and public health agencies who provide outpatient physical therapy and speech-language pathology services (OPTs).
- Calling "911" is not a substitute for having a physician on call or on duty.
- An organization's inability to produce verifiable evidence of an arrangement for on-call physician availability will serve as the basis for a citation.

The Condition of Participation for OPTs concerning plans of care and physician involvement (42 CFR Section 485.711(c)) includes the following standard for emergency care:

[t]he organization provides for one or more doctors of medicine or osteopathy to be available on call to furnish necessary medical care in case of emergency. The established procedures, to be followed by personnel in an emergency, cover immediate care of the patient, persons to be notified, and reports to be prepared.

It is CMS' understanding that in emergency situations, a common practice among OPTs is to contact immediately a local emergency medical response system ("EMS") through 911 or another designated calling number. Contacting EMS in emergency situations to transport patients expeditiously to an emergency department or trauma center is consistent with sound medical practice. While CMS encourages OPTs to include contacting EMS in their emergency procedures, the regulation at Section 485.711(c) also requires that OPTs provide for one or more physicians to be "available on call" to furnish necessary medical care in case of an emergency. Thus, even if an OPT's emergency procedures require personnel to contact EMS, the center must also provide for an on-call physician to be available to furnish medical care in an emergency situation.

OPTs have the discretion to determine which physician(s) they will arrange to be available on call to furnish medical services in case of an emergency (e.g., a physician at a nearby hospital emergency room, each patient's primary care/referring physician). Although Appendix E of the State Operations Manual states that organizational policies should contain the names and telephone numbers of physician(s) that the organization has arranged to be on-call, it is not mandatory for the organization to have those names listed or posted within the agency, and organizations should not be cited for deficient practices for the lack of such a list.

However, upon request by surveyors, a center must be able to produce the name(s) and contact information of the physician(s) the center has arranged to be available on-call in an emergency, so that surveyors have some method with which to verify that a center has met the on-call physician requirement of 42 CFR Section 485.711(c). An organization's inability to produce verifiable evidence of an arrangement for an on-call physician would serve as a legitimate basis for a citation.

In addition to providing for a physician to be available on call to furnish emergency care, OPTs may also include in their emergency procedures an instruction to contact a patient's primary care and/or referring physician. This practice may be especially helpful since a patient's primary care and/or referring physician is most familiar with a patient's medical conditions and requirements and may be able to provide important information to the EMS responders and/or the on-call physician. While contacting a patient's primary and/or referring physician is a highly recommended practice, it is not a substitute for contacting the physician(s) with whom the center has arranged to furnish on-call emergency medical care as required by 42 CFR Section 485.711(c), unless the center has specifically arranged for the patient's primary/referring physician to be one of the on-call physicians.

CMS expects that an organization's policies and procedures will clearly delineate the appropriate line(s) of communication for emergency situations, including the requirement to contact an on-call physician. The staff must be able to demonstrate their understanding of the organization's policy/procedure for emergency care, know how to assess the medical situation and how to implement the appropriate response. The discussions and actions taken should be documented in the patient's medical record.

If you have any questions about this standard, please contact Georgia Johnson at (410) 786-6859.

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management (G-5)